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10/715,942	11/18/2003	Norman Castellani	12504US04	4458

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EXAMINER

PATEL, DHIRUBHAI R

ART UNIT	PAPER NUMBER
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2831

DATE MAILED: 04/19/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/715,942

Applicant(s)

CASTELLANI ET AL.

Examiner

DHIRU R. PATEL

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 22 March 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-28 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-28 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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1. The finality of the final rejection mailed on 02/09/2005 is hereby vacated. This office action replaces previously office action sent on 02/09/05 with a new statutory period. Any inconvenience to the Applicant is regretted.

Drawings

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, each simplex power receptacle having a respective housing recited in claims 1, 6, 14, 16, 21 and 26-27 must be shown or the feature(s) canceled from the claim(s). The examiner suggests showing reference number for a respective housing. A proposed drawing correction or corrected drawings are required in reply to the office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance. No new matter should be entered.

Applicant is responsible for showing reference number for claimed invention.

3. Applicant is required to submit a proposed drawing correction in reply to this office action. However, formal correction of the noted defect may be deferred until after the examiner has considered the proposed drawing correction. Failure to timely submit the proposed drawing correction will result in the abandonment of the application.

4. Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The replacement sheet(s) should be labeled "Replacement Sheet" in the page header (as per 37 CFR 1.84©)) so as not to obstruct any portion of the drawing figures. If the changes are not accepted by the examiner, the applicant

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will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 112

5. Claims 1-17 and 21-27 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention.

The examiner notes that MPEP 2163.02 states:

If a claim is amended to include subject matter, limitations, or terminology not present in the application as filed, involving a departure from, addition to, or deletion from the disclosure of the application as filed, the examiner should conclude that the claimed subject matter is not described in that application. This conclusion will result in the rejection of the claims affected under 35 U.S.C. 112, first paragraph - description requirement, or denial of the benefit of the filing date of a previously filed application, as appropriate.

By adding that the invention may “ each simplex power receptacle having a respective housing “ the amended claim involves a departure from the disclosure of the application as filed. Therefore, the subject matter claimed in claims 1-17 and 21-27, detailing the entire scope of the invention, is not described in the application.

The examiner also notes that MPEP 2163.05 also states:

The failure to meet the written description requirement of 35 U.S.C. 112, first paragraph, commonly arises when the claims are changed after filing to either broaden or narrow the breadth of the claim limitations, or to alter a numerical range limitation or to use claim language which is not synonymous with the terminology used in the original disclosure.

To comply with the written description requirement of 35 U.S.C. 112, para. 1, or to be entitled to an earlier priority date or filing date under 35 U.S.C. 119, 120, or 365(c), each claim limitation must be expressly, implicitly, or inherently supported in the originally filed disclosure.

Specification

6. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required: Claims 1-17 and 21-27 are not adequately supported by the **Original** specification. The added material “ each simplex power receptacle having a respective housing “ which is not supported by the **original** disclosure, see item 5 of this office action **Please note that inventor is responsible for providing element number for each claimed invention as well as** for providing page number, figure number, element number, and column with **lines number in the original specification** for claims 1-17 and 21-27 to verify and in compliance with statute 35 USC 112 first paragraph defined in MPEP .

Please note that the claim or claims (1-17 and 21-27) must conform to the invention as set forth in the remainder of the specification and the terms and phrases used in the claims (1-17 and 21-27) must find clear support or antecedent basis in the description so that the meaning of the terms in the claims may be ascertainable by reference to the description, see MPEP 608.01 (d)(1).

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Response to Amendment

7. The amendment filed on 6/17/2004 is objected to under 35 U.S.C. 132 because it introduces new matter into the disclosure. 35 U.S.C. 132 states that no amendment shall introduce new matter into the disclosure of the invention. The added material "each simplex power receptacle having a respective housing " which is not supported by the original disclosure for claims 1, 6, 11, 14, 16, 21, and 26-27 (i.e. " each simplex power receptacle having a respective housing ") .

Applicant is required to cancel the new matter in the reply to this Office Action.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103 (a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(f) or (g) prior art under 35 U.S.C. 103(a).

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8. Claims 1-28 as best understood, are rejected under 35 U.S.C. § 103 (a) as being unpatentable over Whitehead (6,417,446) in view of Dola et al (4,952,163) and Norsworthy (5,035,630).

Whitehead discloses:

Regarding claim 1, a poke-through fitting 10 (see fig 1, column 4 lines 35-40) of the type that is adapted to be supported in a circular opening 12 in a floor 14 of a building structure (see fig 2 , entire column 2 and column 4 lines 35-67), the fitting comprising: an insert sized 20 (body, see figs 1-2, entire column 2 and column 5 lines 4-65) for insertion into the circular floor opening (see figs 1-2 and entire abstract as well as entire column 2); and two power receptacles 98,99 (see figs 5-7, column 8 lines 1-2) , but fails to disclose each of said power receptacles is simplex power receptacle and having a separate housing and two additional simplex power receptacles with each having a separate housing. Dola et al teach the use of a power receptacle 16 having a separate housing 22 (See fig 3, column 2 lines 25-35, column 3 lines 58-61 and entire column 4, please note that Dola et al disclose an opening 46 can be sized to correspond to the configuration of the front face of a simplex receptacle, see column 4 lines 40-43) and Norsworthy teaches the use of a simplex receptacle 46 (see fig 1, column 4 lines 43-46, column 6 lines 21-24). It is well known in the electrical art to use a simplex power receptacle having a separate housing as evidenced by Dola et al and Norsworthy. It would have been an obvious matter of design choice to use a simplex power receptacle having a separate housing , since applicant has not disclosed that a simplex power receptacle having a separate housing solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with if designed with said power receptacles of Whitehead.

With respect to two additional simplex power receptacles having a respective housing. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide any number of separately simplex power receptacles, since it has been held

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that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

Regarding claim 2, the modified assembly of Whitehead disclose all the features of the claimed invention as shown above, including the simplex receptacles are configured to snap fit into a portion of the insert (see fig 1, and entire column 6 of Whitehead). It is noted that the modified assembly of Whitehead meet the structural limitations.

Regarding claim 4, the modified assembly of Whitehead disclose all the features of the claimed invention as shown above, including power receptacles are wired in separate electrical circuits (see figs 5-7 and column 1 lines 54-57 and entire column 6 of Whitehead). It is noted that the modified assembly of Whitehead meet the structural limitations.

Regarding claim 5, the modified assembly of Whitehead disclose all the features of the claimed invention as shown above, including a cover assembly 136 overlying the insert (see fig 3A , column 7 lines 25-30 of Whitehead), the cover assembly including access covers 150 for selectively covering and exposing the simplex power receptacles (see fig 3A and entire column 7 of Whitehead).

Whitehead discloses:

Regarding claim 6, a poke-through fitting 10 (see fig 1, column 4 lines 35-40) of the type that is adapted to be supported in a circular opening 12 in a floor 14 of a building structure (see fig 2, entire column 2 and column 4 lines 35-67), the fitting comprising: an insert sized 20 (body, see figs 1-2, entire column 2 and column 5 lines 4-65) for insertion into the circular floor opening (see figs 1-2 and entire abstract as well as entire column 2); and two power receptacles 98,99 and supported by the insert (see figs 5-7, column 8 lines 1-2), and four communication/data jacks 126, 127, 162 supported within the insert

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(please note that a wing 162 which allows the mounting of two additional data jacks, see fig 6, and entire column 7 and column 8 lines 8-10), but fails to disclose each of said power receptacles is simplex power receptacle and having a separate housing and two additional simplex power receptacles with each having a separate housing. Dola et al teach the use of a power receptacle 16 having a separate housing 22 (See fig 3, column 3 lines 58-61 and entire column 4, please note that Dola et al disclose opening 46 can be sized to correspond to the configuration of the front face of a simplex receptacle, see column 4 lines 40-43) and ^{CL4 Lines 43-46} Norsworthy teaches the use of a simplex receptacle 46 (see fig 1, column 6 lines 6 lines 21-24). It is well known in the electrical art to use a simplex power receptacle having a separate housing as evidence by Dola et al and Norsworthy. It would have been an obvious matter of design choice to use a simplex power receptacle having a separate housing , since applicant has not disclosed that a simplex power receptacle having a separate housing solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with if designed with said power receptacles of Whitehead. With respect to additional simplex power receptacles and each having a separate housing. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide any number of separately simplex power receptacles, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. St. Regis Paper Co. v. Bemis Co., 193 USPQ 8.

Regarding claim 7, the modified assembly of Whitehead disclose all the features of the claimed invention as shown above, including the simplex receptacles are configured to snap fit into a portion of the insert (see fig 1, and entire column 6 of Whitehead). It is noted that the modified assembly of Whitehead meet the structural limitations.

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Regarding claim 9, the modified assembly of Whitehead disclose all the features of the claimed invention as shown above, including at least two of the power receptacles are wired in separate electrical circuits (see figs 5-7 and column 1 lines 54-57 and entire column 6 of Whitehead). It is noted that the modified assembly of Whitehead meet the structural limitations.

Regarding claim 10, the modified assembly of Whitehead disclose all the features of the claimed invention as shown above, including a cover assembly 136 overlying the insert (see fig 3A , column 7 lines 25-30 of Whitehead), the cover assembly including access covers 150 (see fig 3A and entire column 7 of Whitehead) for selectively covering and exposing the simplex power receptacles (see fig 3A and entire column 7 of Whitehead).

Whitehead discloses:

Regarding claim 11, a poke-through fitting 10 (see fig 1, column 4 lines 35-40) of the type that is adapted to be supported in a circular opening 12 in a floor 14 of a building structure (see fig 2, entire column 2 and column 4 lines 35-67), the fitting comprising: an insert sized 20 (body, see figs 1-2, entire column 2 and column 5 lines 4-65) for insertion into the circular floor opening (see figs 1-2 and entire abstract as well as entire column 2); the insert having an upper end adjacent to the floor and having a chamber defined therein which extends downwardly from the upper end (see figs 2 and 7, and entire column 7), a cover 136 overlying the insert (see fig 3A), the cover having an upper surface, four communication/data jacks 126, 127, 162 mounted within the fitting such that the communication/data jacks do not extend upwardly beyond the upper surface of the cover (please note that a wing 162 which allows the mounting of two additional data jacks, see fig 6, and entire column 7 and column 8 lines 8-10) and two power receptacles 98,99 are mounted within the fitting such that the power receptacles

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do not extend upwardly beyond the upper surface of the cover (see fig 7, column 8 lines 1-2), but fails to disclose each of said power receptacles is simplex power receptacle and having a separate housing and two additional simplex power receptacles with each having a separate housing. Dola et al teach the use of a power receptacle 16 having a separate housing 22 (See fig 3, column 3 lines 58-61 and entire column 4, please note that Dola et al disclose opening 46 can be sized to correspond to the configuration of the front face of a simplex receptacle, see column 4 lines 40-43) and Norsworthy teaches the use of a simplex receptacle 46 (see fig 1, column 4 lines 43-46, column 6 lines 6 lines 21-24). It is well known in the electrical art to use a simplex power receptacle having a separate housing as evidenced by Dola et al and Norsworthy, it would have been an obvious matter of design choice to use a simplex power receptacle having a separate housing, since applicant has not disclosed that a simplex power receptacle having a separate housing solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with if designed with said power receptacles of Whitehead.

With respect to two additional power receptacles having a respective housing. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide any number of separately simplex power receptacles, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

Regarding claim 13, the modified assembly of Whitehead discloses all the features of the claimed invention as shown above, including at least two of the simplex power receptacles are wired in separate electrical circuits (see figs 5-7 and column 1 lines 54-57 and the entire column 6 of Whitehead).

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It is noted that the modified assembly of Whitehead meet the structural limitations.

Whitehead discloses:

Regarding claim 14, a flush poke-through wiring fitting 10 (see fig 1, column 4 lines 35-40) of the type that is adapted to be supported in a floor opening 12 in a floor 14 of a building structure (see fig 2, entire column 2 and column 4 lines 35-67), the poke-through fitting comprising: an insert sized 20 (body, see figs 1-2, entire column 2 and column 5 lines 4-65) for insertion into the circular floor opening (see figs 1-2 and entire abstract); a cover 136 overlying the insert (see fig 3A), the cover having an upper surface; and two power receptacles 98,99 are mounted within the fitting in a protected fashion such that the power receptacles do not extend upwardly beyond the upper surface of the cover (see fig 2, column 8 lines 1-2), but fails to disclose each of said power receptacles is simplex power receptacle and having a separate housing and two additional simplex power receptacles with each having a separate housing. Dola et al teach the use of a power receptacle 16 having a separate housing 22 (See fig 3, column 3 lines 58-61 and entire column 4, please note that Dola et al disclose opening 46 can be sized to correspond to the configuration of the front face of a simplex receptacle, see column 4 lines 40-43) and Norsworthy teaches the use of a simplex receptacle 46 (see fig 1, column 4 lines 43-46, column 6 lines 6 lines 21-24). It is well known in the electrical art to use a simplex power receptacle having a separate housing as evidenced by Dola et al and Norsworthy, it would have been an obvious matter of design choice to use a simplex power receptacle having a separate housing, since applicant has not disclosed that a simplex power receptacle having a separate housing solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with if designed with said power receptacles of Whitehead.

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With respect to two additional power receptacles having a respective housing. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide any number of separately simplex power receptacles, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

In addition, it has been held that the recitation that an element is "adapted to" perform a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. *In re. Hutchison*, 69 USPQ 138. It is noted that the modified assembly of Whitehead meet the structural limitations.

Whitehead discloses:

Regarding claim 16, a poke-through fitting 10 (see fig 1, column 4 lines 35-40) of the type that is adapted to be supported in a circular opening 12 in a floor 14 of a building structure (see fig 2, entire column 2 and column 4 lines 35-67), the fitting comprising: four communication/data jacks 126,127, 162 mounted within the fitting (please note that a wing 162 which allows the mounting of two additional data jacks, see fig 6, and entire column 7 and column 8 lines 8-10), the communication/data jacks being arranged in a longitudinal row (see fig 6); first and second electrical receptacles 88,89 disposed on a first lateral side of the communication/data jack (see fig 6); but fails to disclose the first and second receptacles are simplex receptacles and two additional simplex receptacles (third and fourth) and each of said receptacle having a separate housing. Dola et al teach the use of a power receptacle 16 having a separate housing 22 (See fig 3, column 3 lines 58-61 and entire column 4, please note that Dola et al disclose opening 46 can be sized to correspond to the configuration of the front face of a simplex receptacle, see column 4 lines 40-43) and Norsworthy teaches the use

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of a simplex receptacle 46 (see fig 1, column 4 lines 43-46, column 6 lines 6 lines 21-24). It is well known in the electrical art to use a simplex power receptacle having a separate housing as evidence by Dola et al and Norsworthy. It would have been an obvious matter of design choice to use a simplex power receptacle having a separate housing , since applicant has not disclosed that a simplex power receptacle having a separate housing solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with if designed with said power receptacles of Whitehead.

With respect to two additional power receptacles having a respective housing. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide any number of separately simplex power receptacles, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

In addition, it has been held that the recitation that an element is "adapted to" perform a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. *In re. Hutchison*, 69 USPQ 138. It is noted that the modified assembly of Whitehead meet the structural limitations.

Regarding claim 17, the modified assembly of Whitehead disclose all the features of the claimed invention as shown above, including the first pair of the power receptacles are wired in separate electrical circuits from the second pair of simplex receptacles (see figs 5-7 and column 1 lines 54-57 and the entire column 6 of whitehead). It is noted that the modified assembly of Whitehead meet the structural limitations.

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Assembly of the device of Whitehead comprises method step of:

Regarding claim 18, a method of delivering flush poke-through wiring fitting 10 (see fig 1, column 4 lines 35-40) that is adapted to be supported in a floor opening 12 in a floor 14 of a building structure (see fig 2, entire column 2 and column 4 lines 35-67), the method comprising: providing a cover 146 that overlies the fitting and has an upper surface (see fig 2); mounting four communication/data jacks 126, 127, 162 within the fitting such that the communication/data jacks do not extend upwardly beyond the upper surface of the cover (please note that a wing 162 which allows the mounting of two additional data jacks, see fig 6, and entire column 7 and column 8 lines 8-10); mounting two power receptacles 98, 99 within the fitting such that the receptacles do not extend upwardly beyond the upper surface of the cover (see fig 3B), but fails to disclose each of said power receptacles is simplex receptacles and two additional simplex receptacles . Dola et al teach the use of a power receptacle 16 having a separate housing 22 (See fig 3, column 3 lines 58-61 and entire column 4, please note that Dola et al disclose opening 46 can be sized to correspond to the configuration of the front face of a simplex receptacle, see column 4 lines 40-43) and Norsworthy teaches the use of a simplex receptacle 46 (see fig 1, column 4 lines 43-46, column 6 lines 6 lines 21-24). It is well known in the electrical art to use a simplex power receptacle having a separate housing as evidence by Dola et al, and Norsworthy. it would have been an obvious matter of design choice to use a simplex power receptacle having a separate housing , since applicant has not disclosed that a simplex power receptacle having a separate housing solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with if designed with said power receptacles of Whitehead.

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With respect to two additional simplex power receptacles having a respective housing. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide any number of separately simplex power receptacles, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ .

Regarding claim 20, further comprising wiring at least two power receptacles in separate electrical circuits (see column 2 lines 1-7 of Whitehead). It is noted that the modified assembly of Whitehead meet the structural limitations.

Assembly of the device of Whitehead comprises method step of:

Regarding claim 21, a method for providing a poke-through fitting 10 (see fig1, column 4 lines 35-40) of the type that is adapted to be supported in a circular opening 12 in a floor 14 of a building structure (see fig 2, entire column 2 and column 4 lines 35-67), the method comprising: providing an insert sized 20 (see figs 1 and 6, entire column 2, column 5 lines 4-65) for insertion into the circular floor opening (see figs 1-2, entire abstract as well as entire column 2); and mounting two power receptacles 98,99 within said insert (see figs 1 and 6), but fails to disclose each of said power receptacles is simplex power receptacle and having a separate housing and two additional simplex power receptacles with each having a separate housing. Dola et al teach the use of a power receptacle 16 having a separate housing 22 (See fig 3, column 3 lines 58-61 and entire column 4, please note that Dola et al disclose opening 46 can be sized to correspond to the configuration of the front face of a simplex receptacle, see column 4 lines 40-43) and Norsworthy teaches the use of a simplex receptacle 46 (see fig 1, column 4 lines 43-46, column 6 lines 6 lines 21-24). It is well known in the electrical art to use a simplex power receptacle having a separate housing as evidence by

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Dola et al and norsworthy, it would have been an obvious matter of design choice to use a simplex power receptacle having a separate housing, since applicant has not disclosed that a simplex power receptacle having a separate housing solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with if designed with said power receptacles of Whitehead.

With respect to two additional simplex power receptacles having a respective housing.

It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide any number of separately simplex power receptacles, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

Regarding claim 22, the modified assembly of Whitehead disclose all the features of the claimed invention as shown above, including wherein the receptacles are configured to snap fit into a portion of the insert (see fig 6 of Whitehead).

Regarding claim 24, the modified assembly of Whitehead disclose all the features of the claimed invention as shown above, including wiring at least two of the receptacles in separate electrical circuits (see fig 7 and entire column 6 of Whitehead). It is noted that the modified assembly of Whitehead meet the structural limitations.

Regarding claim 25, the modified assembly of Whitehead disclose all the features of the claimed invention as shown above, including a cover assembly 136 including access covers 150 (see fig 3A and entire column 7 of Whitehead) for selectively covering and exposing the simplex power receptacles (see fig 3A and entire column 7 of Whitehead).It is noted that the

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modified assembly of Whitehead meet the structural limitations.

Assembly of the device of Whitehead comprises method step of:

Regarding claim 26, a method for providing a poke-through fitting 10 (see fig 1, column 4 lines 35-40) of the type that is adapted to be supported in a circular opening 12 in a floor 14 of a building structure (see fig 2, entire column 2 and column 4 lines 35-67), the method comprising: providing an insert sized 20 (body, see figs 1 and 6, entire column 2, column 5 lines 4-65) for insertion into the circular floor opening (see fig 2); mounting two power receptacles 98,99 within the insert (see figs 1 and 6), and mounting four communication/data jacks 126,127, 162 within the insert (please note that a wing 162 which allows the mounting of two additional data jacks, see fig 6, and entire column 7 and column 8 lines 8-10), but fails to disclose each of said power receptacles is simplex power receptacle and having a separate housing and two additional simplex power receptacles with each having a separate housing. Dola et al teach the use of a power receptacle 16 having a separate housing 22 (See fig 3, column 3 lines 58-61 and entire column 4, please note that Dola et al disclose opening 46 can be sized to correspond to the configuration of the front face of a simplex receptacle, see column 4 lines 40-43) and Norsworthy teaches the use of a simplex receptacle 46 (see fig 1, column 4 lines 43-46, column 6 lines 6 lines 21-24). It is well known in the electrical art to use a simplex power receptacle having a separate housing as evidence by Dola et al and Norsworthy, it would have been an obvious matter of design choice to use a simplex power receptacle having a separate housing , since applicant has not disclosed that a simplex power receptacle having a separate housing solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with if designed with said power receptacles of Whitehead.

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With respect to two additional simplex power receptacles having a respective housing. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide any number of separately simplex power receptacles, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. *St. Regis Paper Co. v. Bemis Co.*, 193 USPQ 8.

it has been held that the recitation that an element is "adapted to" perform a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. *In re. Hutchison*, 69 USPQ 138. It is noted that the modified assembly of Whitehead meet the structural limitations.

Assembly of the device of Whitehead comprises method step of:

Regarding claim 27, a method for providing a poke-through wiring fitting 10 (see fig 1, column 4 lines 35-40) of the type that is adapted to be supported in a circular floor opening 12 in a floor 14 of a building structure (see fig 2, entire column 2 and column 4 lines 35-67), the method comprising: mounting four communication/data jacks 126, 127, 162 (please note that a wing 162 which allows the mounting of two additional data jacks, see fig 6, and entire column 7 and column 8 lines 8-10), the communication/data jacks being arranged in a longitudinal row (see fig 7); mounting first and second power receptacles 98 , 99 on a first lateral side of the communication/data jack; but fails to disclose a third and a fourth simplex power receptacles having a separate housing, and the first and second power receptacles are simplex power receptacle with a separate housing. Dola et al teach the use of a power receptacle 16 having a separate housing 22 (See fig 3, column 3 lines 58-61 and entire column 4, please note that Dola et al disclose an opening 46 can be sized to correspond to the configuration of the front face of a simplex receptacle, see column 4 lines 40-43) and

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Norsworthy teaches the use of a simplex receptacle 46 (see fig 1, column 4 lines 43-46, column 6 lines 6 lines 21-24). It is well known in the electrical art to use a simplex power receptacle having a separate housing as evidence by Dola et al and Norsworthy, it would have been an obvious matter of design choice to use a simplex power receptacle having a separate housing , since applicant has not disclosed that a simplex power receptacle having a separate housing solves any stated problem or is for any particular purpose and it appears that the invention would perform equally well with if designed with said power receptacles of Whitehead.

With respect to two additional power receptacles having a respective housing. It would have been obvious to one having ordinary skill in the art at the time the invention was made to provide any number of separately simplex power receptacles, since it has been held that mere duplication of the essential working parts of a device involves only routine skill in the art. St. Regis Paper Co. v. Bemis Co., 193 USPQ 8.

it has been held that the recitation that an element is "adapted to" perform a function is not a positive limitation but only requires the ability to so perform. It does not constitute a limitation in any patentable sense. In re. Hutchison, 69 USPQ 138. It is noted that the modified assembly of Whitehead meet the structural limitations. It is noted that the modified assembly of Whitehead meet the structural limitations.

Regarding claim 28, the modified assembly of Whitehead disclose all the features of the claimed invention as shown above, including wiring the first pair of simplex power receptacles 18 are in a separate electrical circuit from the second pair of simplex receptacles (see fig 7 and entire column 6 of Whitehead).

Regarding claims 3,8,12,15, 19 and 23, the modified assembly of Whitehead disclose all

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the features of the claimed invention as shown above, including a fire stopping material disposed in the insert (see column 2 lines 50-52, and column 8 lines 53-67 and column 9 lines 1-6 of Whitehead).

With respect to claims 12, 15 and 19, the floor opening formed in the floor and with the poke-through wiring fitting supported in the floor opening, is substantially the same as the fire rating of the floor without the floor opening formed in the floor (see fig 2 of whitehead).

Response to Arguments

9. Applicant's arguments with respect to claims 1-28 have been considered but are moot in view of the new ground(s) of rejection. With respect to Applicant's arguments about simplex power receptacle with a separate housing. It is noted that using a simplex receptacle with a separate housing is well know in electrical art as evidence by Dola et al and Norsworthy .

Contact information

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dhiru Patel whose telephone number is 571-272-1983. The examiner can normally be reached on Mon-Fri. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dean Reichard can be reached on 571-272-2800 ext 31. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications

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may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only.

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Dhiru Patel

Primary Examiner

Group Art Unit 2831

April 16, 2005



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4/16/05